

Amendment and Response to Restriction Requirement

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*Applicant(s): Timothy E. Benson**Serial No.: 09/991,211**Filed: November 21, 2001**For: CRYSTALLIZATION AND STRUCTURE DETERMINATION OF STAPHYLOCOCCUS AUREUS UDP-N-ACETYLENOLPYRUVYLGLUCOSAMINE REDUCTASE (S. aureus MurB)***Remarks**

The specification has been amended at page 1, the paragraph immediately below the title, to update the status of the parent application.

Claims 8-20 and 44-46 having been canceled herein, claims 47-53 having been previously canceled, and claims 54-61 having been added, the pending claims are claims 1-7, 21-43, and 54-61. Claims 21-43 having been withdrawn from consideration as being drawn to non-elected groups, Applicants respectfully submit that claims 1-7 and 54-61 are currently under consideration.

New claims 54-61 are generally supported by the specification and originally filed claims. Specifically, the end points of the polypeptide recited in new claim 54 are supported, for example, by the first and last residues listed in Tables 1 to 3, at pages 4-5 of the specification. Thus the polypeptide recited in claims 54-57 includes the FAD binding pocket recited in originally filed claims 1-3. The end points of the polypeptide recited in new claim 58 are supported, for example, by the first and last residues listed in Tables 4 to 6 at pages 5-6 of the specification. Thus the polypeptide recited in claims 58-61 includes the substrate binding pocket recited in originally filed claims 4-6.

Entry and consideration of the new claims is respectfully requested.

Inventorship

On page 2, item 4 of the Office Action mailed June 30, 2004, the Examiner indicated that the record is unclear as to whether the present application has one or two inventors. Applicant respectfully disagrees.

Applicant respectfully submits that the present application is a division of, and presents a priority claim to, application Serial No. 09/632,947, and that the priority claim is in full compliance with 35 U.S.C. §121, as discussed herein below. As such, a copy of the declaration of record in application Serial No. 09/632,947, which lists two inventors, was submitted in the present application on November 21, 2001, in accordance with 37 C.F.R. §1.63(d).

Further, the Examiner's attention to Item 11, page 2, of the Request for Filing a Divisional

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Patent Application under Rule 1.53(b), filed on November 21, 2001. Item 11, in accordance with 37 C.F.R. §1.63(d)(2), states that "[t]his application is being filed by less than all of the inventors named in the prior application. Please delete the names of the following inventor(s) who are not inventors of the invention claimed in the present application: Melissa S. Harris."

Thus, Applicant respectfully submits that it is clear that one inventor is listed for the claims in the present application.

Objection to the Specification

On page 2, item 5 of the Office Action mailed June 30, 2004, the Examiner objected to the specification for not being in compliance with 35 U.S.C. §121, as allegedly lacking a specific reference to the prior application(s) in the first sentence of the specification. Applicant respectfully disagrees.

Applicant points the Examiner's attention to Item 12, page 2, of the Request for Filing a Divisional Patent Application under Rule 1.53(b), filed on November 21, 2001. Item 12 requests that the Examiner "[a]mend the specification by inserting as the first sentence on page 1, the following: --This is a division of application Serial No. 09/632,947, filed August 4, 2000 (pending), which is incorporated herein by reference.-- Further, the status of the parent application has been updated in the present Amendment to the Specification.

Thus, Applicant respectfully submits that the present specification is in full compliance with 35 U.S.C. §121. Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the specification.

Response to Restriction Requirement

In response to the Restriction Requirement mailed June 30, 2004, Applicant elects, with traverse, Group I (claims 1-7), drawn to a molecule or molecular complex. Further, Applicant respectfully submits that new claims 54-61 are also drawn to Group I. Applicant's Representatives reserve the right to pursue examination of the non-elected claims in continuation and/or divisional applications. Applicant respectfully requests reconsideration of the restrictions

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in this case and submits that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner.

Applicant thanks the Examiner for noting that when an elected product claim is found to be allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with M.P.E.P. §821.04.

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ACETYLENOLPYRUVYLGLUCOSAMINE REDUCTASE (*S. aureus* MurB)**Conclusion**

The Examiner is invited to contact Applicant's Representatives at the below-listed telephone number, if there are any questions regarding this Amendment and Response to Restriction Requirement, or if prosecution of this application may be assisted thereby.

Respectfully submitted for
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CERTIFICATE UNDER 37 C.F.R. §1.8: The undersigned hereby certifies that this Facsimile Cover Sheet and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office addressed to the Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450, on this 30th day of JULY, 2004, at 12:41 PM (Central Time).

By:

Name: SAM HER